

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TECNIMED SRL,

Plaintiff,

- v. -

KIDZ-MED, INC., and  
AMERICAN SCIENTIFIC RESOURCES,  
INC.,

Defendants.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: October 11, 2013

**ORDER OF DISMISSAL**

10 Civ. 7277 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

**WHEREAS** on September 21, 2010, Plaintiff Tecnimed SRL (“Tecnimed”) filed a complaint alleging trademark infringement, injury to business reputation under New York Law, common law unfair competition, and tortious interference against Defendant Kidz-Med, Inc. and American Scientific Resources, Inc. (Dkt. No. 1);

**WHEREAS** on January 18, 2011, this Court granted Plaintiff’s motion for preliminary injunction (Dkt. No. 38)<sup>1</sup>;

**WHEREAS** on February 4, 2011, Tecnimed posted a preliminary injunction bond, No. 1000882521 (Dkt. No. 49);

**WHEREAS** on February 10, 2012, the United States Court of Appeals for the Second Circuit affirmed this Court’s decision granting injunctive relief<sup>2</sup>;

**WHEREAS** this action has been stayed due to the bankruptcy proceeding of Defendant American Scientific Resources, Inc. in the U.S. Bankruptcy Court for the Southern District of Florida, Petition No. 12-bk-14640-JKO;

<sup>1</sup> Tecnimed SRL v Kidz-Med, Inc., 763 F Supp 2d 395 (S.D.N.Y. 2011).

<sup>2</sup> Tecnimed SRL v Kidz-Med, Inc., 462 Fed App’x 31 (2d Cir. 2012) (Summary Order)

**WHEREAS** counsel for Tecnimed and the Bankruptcy Trustee for American Scientific Resources, Inc. have informed this Court that they consent to the dismissal of this action without prejudice;

**WHEREAS** Defendant Kidz-Med, Inc. is a dissolved Florida corporation and is not represented by counsel in this action;

**WHEREAS** Plaintiff's counsel has not been able to obtain consent for the dismissal of this action from Kidz-Med's Registered Agent;

**WHEREAS** on October 2, 2013, this Court ORDERED that Kidz-Med, Inc. show cause before this Court on October 11, 2013 at 11:00 a.m. why the above-captioned action should not be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(2) and the preliminary injunction bond be dissolved and released;

**WHEREAS** on October 2, 2013, this Court further ORDERED that any opposition by Defendant Kidz-Med, Inc. be served and filed by October 9, 2013, and gave notice that failure to submit opposing papers would be deemed consent to the dismissal of this action and to the release of the injunction bond;

**WHEREAS** a copy of this Court's Order of October 2, 2013 was served by Federal Express on Defendant Kidz-Med, Inc. by October 3, 2013, pursuant to the terms of that Order; and

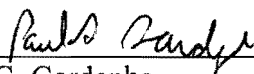
**WHEREAS** Defendant Kidz-Med, Inc. filed no opposition and did not appear at the October 11, 2013 hearing;

It is hereby ORDERED that the above-captioned action is dismissed, without prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(2), with each party to bear its own costs, fees, and expenses;

It is further ORDERED that all sureties that have posted undertakings, bonds, or deposits, (collectively "Undertakings") in this action, including American Contractors Indemnity Company, which posted bond No. 1000882521, are fully discharged and exonerated, and all Undertakings posted thereby are released and are of no remaining force or effect.

Dated: New York, New York  
October 11, 2013

SO ORDERED.

  
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Paul G. Gardephe  
United States District Judge